

**FILED**

JAN 13 2011

**Board of Vocational Nursing  
and Psychiatric Technicians**

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8 **BEFORE THE**  
**BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. VN-2008-1690

12 **THERESA LYNETTE DAVIS,**  
13 **aka THERESA L. DAVIS-BATES**  
14 **aka THERESA L. DAVIS-PRUDHOLME**  
15 **12195 Orchid Lane, #D**  
16 **Moreno Valley, CA 92557**

**A C C U S A T I O N**

17 **Vocational Nurse No. VN 191680**

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

21 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in  
22 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric  
23 Technicians, Department of Consumer Affairs.

24 2. On or about May 8, 2000, the Board of Vocational Nursing and Psychiatric  
25 Technicians issued Vocational Nurse Number VN 191680 to Theresa Lynette Davis, aka Theresa  
26 L. Davis-Bates, aka Theresa L. Prudholme (Respondent). The Vocational Nurse License was in  
27 full force and effect at all times relevant to the charges brought herein and expired on October 31,  
28 2009.

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## JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Business and Professions Code (Code) section 118, subdivision (b), provides:

The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

5. Section 2875 of the Code provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

6. Section 2892.1 of the Code states, in pertinent part:

Except as provided in Sections 2892.3 and 2892.5, an expired license may be renewed at any time within four years after its expiration upon filing of an application for renewal on a form prescribed by the board, payment of all accrued and unpaid renewal fees, and payment of any fees due pursuant to Section 2895.1.

....

## STATUTORY PROVISIONS

7. Section 482 of the Code provides:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

....

(b) Considering suspension of a license under Section 490. Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

8. Section 490 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of a licensed vocational nurse.

1           9.     Section 493 of the Code provides, in pertinent part, that the record of conviction of a  
2 crime shall be conclusive evidence of the facts that the conviction occurred, but only of that fact,  
3 and the board may inquire into the circumstances surrounding the commission of the crime in  
4 order to fix the degree of discipline or to determine if the conviction is substantially related to the  
5 qualifications, functions, and duties of the licensee in question.

6           10.    Section 2878 of the Code states:

7                The Board may suspend or revoke a license issued under this chapter [the  
8 Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the  
following:

9                (a) Unprofessional conduct, which includes, but is not limited to, the  
10 following:

11                ....

12                (f) Conviction of a crime substantially related to the qualifications, functions,  
and duties of a licensed vocational nurse, in which event the record of the conviction  
13 shall be conclusive evidence of the conviction.

14                ....

15           11.    Section 2878.5 of the Code states, in pertinent part:

16                In addition to other acts constituting unprofessional conduct within the meaning of this  
17 chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed  
under this chapter to do any of the following:

18                (a) Obtain or possess in violation of law, or prescribe, or except as directed by  
19 a licensed physician and surgeon, dentist or podiatrist administer to himself or herself  
or furnish or administer to another, any controlled substance as defined in Division 10  
20 of the Health and Safety Code, or any dangerous drug as defined in Article 8  
(commencing with Section 4210) of Chapter 9 of Division 2 of this code.

21                (b) Use of any controlled substance as defined in Division 10 of the Health and  
22 Safety Code, or any dangerous drug as defined in Article 8 (commencing with  
Section 4210 of Chapter 9 of Division 2 of this code, or alcoholic beverages, to an  
23 extent or in a manner dangerous or injurious to himself or herself, any other person,  
or the public, or to the extent that such use impairs his or her ability to conduct with  
24 safety to the public the practice authorized by his or her license.

25                ...

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## REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 2518.6(b)(4), states:

....

(b) A licensed vocational nurse shall adhere to standards of the profession and shall incorporate ethical and behavioral standards of professional practice which include but are not limited to the following:

....

(4) Abstaining from chemical/substance abuse; and

....

13. California Code of Regulations, title 16, section 2521, states, in pertinent part:

For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed vocational nurse to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

....

(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 6.5, Division 2 of the Business and Professions Code.

....

14. California Code of Regulations, title 16, section 2522 states, in pertinent part:

When considering . . . b) the suspension or revocation of a license on the ground that a licensee has been convicted of a crime, . . . the Board in evaluating the rehabilitation of an individual and his or her present eligibility for a license, will consider the following criteria:

(1) Nature and severity of the act(s), offense(s), or crime(s) under consideration.

(2) Actual or potential harm to the public.

(3) Actual or potential harm to any patient.

(4) Overall disciplinary record.

(5) Overall criminal actions taken by any federal, state or local agency or court.

(6) Prior warnings on record or prior remediation.

1 (7) Number and variety of current violations.

2 (8) Mitigation evidence.

3 (9) In case of a criminal conviction, compliance with terms of sentence and/or  
4 court-ordered probation.

5 (10) Time passed since the act(s) or offense(s) occurred.

6 (11) If applicable, evidence of proceedings to dismiss a conviction pursuant to  
7 Penal Code section 1203.4.

8 (12) Cooperation with the Board and other law enforcement or regulatory  
9 agencies.

10 (13) Other rehabilitation evidence.

#### 11 COST RECOVERY

12 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
13 administrative law judge to direct a licensee found to have committed a violation or violations of  
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
15 enforcement of the case.

#### 16 FIRST CAUSE FOR DISCIPLINE

#### 17 (August 17, 2000 Criminal Conviction for Driving Under the Influence of Alcohol on 18 February 26, 2000)

19 16. Respondent is subject to disciplinary action under Code sections 490 and 2878,  
20 subdivision (f), in that Respondent was convicted of a crime that is substantially related to the  
21 qualifications, functions, and duties of a vocational nurse. The circumstances are as follows:

22 17. On or about August 17, 2000, in the Superior Court of California, County of Los  
23 Angeles, Inglewood Division, in Case No. 01W04026, Respondent was convicted on her plea of  
24 nolo contendere of violating Vehicle Code section 23152(a) (Driving Under the Influence of  
25 Alcohol), a misdemeanor.

26 18. The facts that led to Respondent's conviction are that on February 26, 2000,  
27 Respondent was stopped by the California Highway Patrol in Inglewood, California, while  
28 driving. Officers found that Respondent was driving under the influence of alcohol and issued  
Respondent a citation and released her on her own recognizance.

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19. On June 27, 2000, Respondent plead not guilty to both counts. On August 8, 2000, Respondent failed to appear for a pretrial hearing and a \$25,000 bench warrant was issued for Respondent's arrest.

20. On August 17, 1000, Respondent appeared in court and the bench warrant was recalled. Respondent withdrew her plea of not guilty and plead nolo contendere to violation of Vehicle Code section 23152(a). Count two, violation of Vehicle Code section 16028(a), was dismissed in furtherance of justice.

21. As a result of the above conviction, Respondent was placed on summary probation for three years, ordered to pay various fees and fines, participate in a 3-month first offender program, not operate a motor vehicle within 12 hours of having consumed alcoholic beverages, not drive without a California driver's license, not refuse to take chemical/breath test for alcohol or drugs, and Respondent's driving privileges were restricted for 90 days.

## SECOND CAUSE FOR DISCIPLINE

**(December 22, 2009 Criminal Conviction for Driving With a Blood Alcohol Content of 0.08% or More on December 28, 2008)**

22. Respondent is subject to disciplinary action under Code sections 490 and 2878, subdivision (f), in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, and duties of a vocational nurse. The circumstances are as follows:

23. On or about November 9, 2009, in the Superior Court of California, County of Los Angeles, in Case No. 9SY02167, Respondent was convicted on her plea of nolo contendere of violating Vehicle Code section 23152(b) (Driving With a Blood Alcohol Content of 0.08% or More), a misdemeanor.

24. The facts that led to Respondent's conviction are that on December 28, 2008, at approximately 1849 hours, Gardena Police Department officers observed Respondent speeding. Officers stopped Respondent at 135th Street in the City of Gardena. As soon as officers approached Respondent's vehicle, they smelled an odor of alcohol emitting from Respondent's person. Officers had Respondent perform a series of standardized field sobriety tests and

1 Respondent performed poorly. Respondent was placed under arrest for driving under the  
2 influence of alcohol and transported to the Gardena Police Department jail.

3 25. Respondent submitted to a breath test and her blood alcohol content (BAC) results  
4 were .15/.14. Respondent requested a blood test and a blood test was obtained at Bayside  
5 Medical Center and booked into evidence. The blood test revealed a BAC of .15 percent.

6 26. As a result of the above conviction, Respondent was placed on summary probation  
7 for four (4) years, and ordered, among other things, to serve 11 days in the Los Angeles County  
8 Jail, to pay various fees and fines, to enroll and participate in, and successfully complete an 18-  
9 month licensed second offender alcohol and other drug education and counseling program, and to  
10 obey all laws.

### 11 **THIRD CAUSE FOR DISCIPLINE**

#### 12 **(Unprofessional Conduct – Use of Alcohol in a Dangerous Manner)**

13 27. Respondent is subject to disciplinary action under Code section 2878(a) on the  
14 grounds of unprofessional conduct, as defined by Code section 2878.5(b) in that on or about  
15 February 26, 2000, and December 28, 2008, Respondent used alcohol to an extent or in a manner  
16 dangerous to herself and/or the public, as is more fully detailed at paragraphs 16 through 26,  
17 above, which are incorporated here by reference.

### 18 **FOURTH CAUSE FOR DISCIPLINE**

#### 19 **(Unprofessional Conduct - Conviction of a Drug or Alcohol Related Crime)**

20 28. Respondent is subject to disciplinary action under Code section 2878(a) on the  
21 grounds of unprofessional conduct, as defined by Code section 2878.5(c) in that on or about  
22 August 17, 2000, and December 22, 2009, she was convicted of driving under the influence of  
23 alcohol and driving with a blood alcohol content of 0.08% or more, respectively, as is more fully  
24 detailed at paragraphs 16 through 26, above, which are incorporated here by reference.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians issue a decision:

1. Revoking or suspending Vocational Nurse Number VN 191680, issued to Theresa Lynette Davis, aka Theresa L. Davis-Bates, aka Theresa L. Prudholme;

2. Ordering Theresa Lynette Davis, aka Theresa L. Davis-Bates, aka Theresa L. Prudholme, to pay the Board of Vocational Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: January 13, 2011

  
TERESA BELLO-JONES, J.D., M.S.N., R.N.

for Executive Officer

Board of Vocational Nursing and Psychiatric Technicians

Department of Consumer Affairs

State of California

Complainant

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